

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
W/S 1st Street, 15 ft. N of * ZONING COMMISSIONER
Cuckold Point Road * OF BALTIMORE COUNTY
2800 First Street *
15th Election District * Case No. 92-114-A
7th Councilmanic *
Walter J. Regulski, et ux *
Petitioners *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Section 1802.3.C.2.c (PM) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side street setback of 18 ft. in lieu of the required 25 ft., as more particularly described on Petitioners' Exhibit No. 1.

The Petitioners, property owners, Walter J. and Marcella B. Regulski appeared and testified. Also appearing in support of the Petition was John M. Feehley, the immediate neighbor at 2802 First Street. There were no Protestants.

Testimony indicated that the subject property, known as 2800 First Street, consists of 0.17 acres +/- and is zoned D.R.5.5. Presently the property is unimproved, however, the Petitioners desire to construct a single family dwelling thereon. The subject property is a corner lot located adjacent to the intersection of First Street and Cuckold Point Road.

The Petitioners testified that construction of a reasonably sized dwelling would prohibit them from strict compliance with the side street setback of 25 ft. Pursuant to Petitioners' Exhibit No. 1, they seek a variance of 18 ft.

An area variance may be granted where strict application of the

zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the variance was not granted. It has been established that the requirements from which the Petitioners seek relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not be detrimental to the public health, safety and general welfare.

The facts and evidence presented tend to establish that special conditions or circumstances exist which are peculiar to the land or structures located within the Chesapeake Bay Critical Areas of Baltimore County; that to deny the relief requested would result in practical difficulty, unrea-

sonable hardship, or severe economic hardship upon the Petitioner; and that strict compliance with the Chesapeake Bay Critical Area requirements and the B.C.Z.R. would deprive the Petitioner of rights commonly enjoyed by other properties in similar areas within the Chesapeake Bay Critical Areas in Baltimore County. The granting of the relief requested will not confer upon the Petitioner any special privilege that would be denied by the critical area regulations to other lands or structures within the Chesapeake Bay Critical Areas. Clearly, the request is not based upon conditions or circumstances which are the result of the Petitioners' actions, nor does the request arise from a condition relating to land or building use, either permitted or nonconforming, on another property. The relief requested is in harmony with the general spirit and intent of the Critical Areas legislation for Baltimore County and conforms to the requirements as set forth in Section 500.14 of the B.C.Z.R.

In accordance with Section 500.14 of the B.C.Z.R., the Director of the Department of Environmental Protection and Resource Management has submitted recommendations which describe what steps the Petitioner must take to insure that the relief requested complies with the following Chesapeake Bay Critical Areas requirements to:

- 1) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;
- 2) Conserve fish, wildlife, and plant habitat; and
- 3) Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

These recommendations shall become a permanent part of the decision rendered in this case. There is no evidence in the record that the relief requested would adversely affect the health, safety, and/or general welfare of the public provided there is compliance with the requirements of the Department of Environmental Protection and Resource Management.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 22nd day of Oct, 1991 that a variance from Section 1802.3.C.2.c (PM) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side street setback of 18 ft. in lieu of the required 25 ft., in accordance with Petitioners' Exhibit No. 1, is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2. Compliance with the Department of Environmental Protection and Resource Management recommendations to be submitted upon completion of their review of this matter.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES/mm

Petition for Variance

to the Zoning Commissioner of Baltimore County

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3.C.2.c (PM) to permit a side street setback of 18 feet in lieu of the required 25 feet.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

Strict compliance with the setback requirements would preclude the construction of a reasonably sized dwelling.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City and State

Attorney's Telephone No.:

Legal Owner(s):

Walter J. Regulski

(Type or Print Name)

Signature

Marcella B. Regulski

(Type or Print Name)

Signature

7220 Conley Street 285-2881

Baltimore, Maryland 21224

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

McKee & Associates, Inc. 527-1055

Name

5 Shawan Road, Hunt Valley, Md 21030

Address

Phone No.

OFFICE USE ONLY

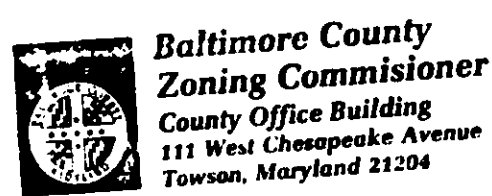
ESTIMATED LENGTH OF HEARING -1/2HR. +1HR.

AVAILABLE FOR HEARING

MON./TUES./WED. - NEXT TWO MONTHS

ALL OTHER

REVIEWED BY: DATE:



Date

Account: R-001-6150
Number

04AD+R0096MICR
BA C010:21A10-17-91

Please Make Checks Payable To: Baltimore County

Cashier Validation

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
TOWSON, MARYLAND

District: 15th Date of Posting: 10/11/91

Posted for: Variance

Petitioner: Walter J. Regulski, et ux

Location of property: W/S 1st Street, 15 ft. N of Cuckold Pt. Rd.

2800 1st St.

Location of Sign: Along intersection of Cuckold Pt. Rd. & 1st St.

approx. 20 ft. on each side of intersection

Remarks: None

Posted by: McKee Date of return: 10/13/91

Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD. 10/13 1991

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 10/13, 1991.

THE JEFFERSONIAN,

S. Zake Olson
Publisher

\$32.83

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 116, Baltimore County Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case Number: 92-114-A
W/S 1st Street, 15 ft. N of Cuckold Point Road
2800 1st Street
15th Election District
7th Councilmanic District
Petitioners:
Walter J. Regulski, et ux
Hearing Date: Monday, October 22, 1991 at 10:30 a.m.

Variance: to permit a side street setback of 18 ft. in lieu of the required 25 ft.

LAWRENCE E. SCHMIDT
Zoning Commissioner of Baltimore County
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